

PART 218—PREDECISIONAL ADMINISTRATIVE REVIEW PROCESSES

Subpart A—Predecisional Administrative Review Process for Hazardous Fuel Reduction Projects Authorized by the Healthy Forests Restoration Act of 2003

Sec.

- 218.1 Purpose and scope.
- 218.2 Definitions.
- 218.3 Authorized hazardous fuel reduction projects subject to objection.
- 218.4 Authorized hazardous fuel reduction projects not subject to objection.
- 218.5 Giving notice of proposed authorized hazardous fuel reduction projects subject to objection.
- 218.6 Reviewing officer.
- 218.7 Who may file an objection.
- 218.8 Filing an objection.
- 218.9 Objections set aside from review.
- 218.10 Objection time periods and process.
- 218.11 Resolution of objections.
- 218.12 Timing of authorized hazardous fuel reduction project decision.
- 218.13 Secretary's authority.
- 218.14 Judicial proceedings.
- 218.15 Information collection requirements.
- 218.16 Applicability and effective date.

Subpart B [Reserved]

AUTHORITY: Pub. L. 108-148, 117 Stat 1887 (Healthy Forests Restoration Act of 2003).

SOURCE: 69 FR 1533, Jan. 9, 2004, unless otherwise noted.

Subpart A—Predecisional Administrative Review Process for Hazardous Fuel Reduction Projects Authorized by the Healthy Forests Restoration Act of 2003

SOURCE: 73 FR 53712, Sept. 17, 2008, unless otherwise noted.

§ 218.1 Purpose and scope.

This subpart establishes a predecisional administrative review (hereinafter referred to as "objection") process for proposed authorized hazardous fuel reduction projects as defined in the Healthy Forests Restoration Act of 2003 (HFRA). The objection process is the sole means by which administrative review of a proposed authorized hazardous fuel reduction project on National Forest System

land may be sought. This subpart identifies who may file objections to those proposed authorized hazardous fuel reduction projects, the responsibilities of the participants in an objection, and the procedures that apply for review of the objection.

§ 218.2 Definitions.

Address: An individual's or organization's current physical mailing address. An e-mail address is not sufficient.

Authorized hazardous fuel reduction project: A hazardous fuel reduction project authorized by the Healthy Forests Restoration Act of 2003 (HFRA).

Comments: Specific written comments related to a proposed authorized hazardous fuel reduction project pursuant to the HFRA.

Decision notice (DN): A concise written record of a responsible official's decision based on an environmental assessment and a finding of no significant impact (FONSI) (40 CFR 1508.13; Forest Service Handbook (FSH) 1909.15, chapter 40).

Environmental assessment (EA): A public document that provides sufficient evidence and analysis for determining whether to prepare an environmental impact statement (EIS) or a finding of no significant impact (FONSI), aids an agency's compliance with the National Environmental Policy Act (NEPA) when no EIS is necessary, and facilitates preparation of a statement when one is necessary (40 CFR 1508.9; FSH 1909.15, Chapter 40).

Environmental impact statement (EIS): A detailed written statement as required by section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (40 CFR 1508.11; FSH 1909.15, Chapter 20).

Forest Service line officer: A Forest Service official who serves in a direct line of command from the Chief and who has the delegated authority to make and execute decisions approving hazardous fuel reduction projects subject to this subpart.

Lead objector: For an objection submitted with multiple individuals and/or organizations listed, the individual or organization identified to represent all other objectors for the purposes of

§218.3

36 CFR Ch. II (7–1–11 Edition)

communication, written or otherwise, regarding the objection.

Name: The first and last name of an individual or the name of an organization. An electronic username is insufficient for identification of an individual or organization.

National Forest System land: All lands, water, or interests therein administered by the Forest Service (§251.51).

Newspaper(s) of record: Those principal newspapers of general circulation annually identified in a list and published in the FEDERAL REGISTER by each regional forester to be used for publishing notices of projects and activities implementing land management plans.

Objection: The written document filed with a reviewing officer by an individual or organization seeking predecisional administrative review of a proposed authorized hazardous fuel reduction project as defined in the HFRA.

Objection period: The 30-calendar-day period following publication of the legal notice in the newspaper of record of an environmental assessment (EA) or final environmental impact statement (EIS) for a proposed authorized hazardous fuel reduction project during which an objection may be filed with the reviewing officer. When the Chief is the responsible official the objection period begins following publication of a notice in the FEDERAL REGISTER.

Objection process: Those procedures established for predecisional administrative review of proposed authorized hazardous fuel reduction projects subject to the HFRA.

Objector: An individual or organization filing an objection who submitted comments specific to the proposed authorized hazardous fuel reduction project during scoping or other opportunity for public comment as described in the HFRA. The use of the term “objector” applies to all persons who meet eligibility requirements associated with the filed objection (§218.7(a)).

Record of decision (ROD): A document signed by a responsible official recording a decision that was preceded by preparation of an environmental impact statement (EIS) (40 CFR 1505.2; FSH 1909.15, Chapter 20).

Responsible official: The Forest Service employee who has the delegated authority to make and implement a decision approving proposed authorized hazardous fuel reduction projects subject to this subpart.

Reviewing officer: The United States Department of Agriculture (USDA) or Forest Service official having the delegated authority and responsibility to review an objection filed under this subpart. The reviewing officer is the next higher level supervisor of the responsible official.

§218.3 Authorized hazardous fuel reduction projects subject to objection.

(a) Only authorized hazardous fuel reduction projects as defined by the HFRA, section 101(2), occurring on National Forest System lands that have been analyzed in an EA or EIS are subject to this subpart. Authorized hazardous fuel reduction projects processed under the provisions of the HFRA are not subject to the notice, comment, and appeal provisions set forth in part 215 of this chapter.

(b) When authorized hazardous fuel reduction projects are approved contemporaneously with a plan amendment that applies only to that project, the objection process of this part applies to both the plan amendment and the project.

§218.4 Authorized hazardous fuel reduction projects not subject to objection.

Projects are not subject to objection when no comments (§218.2) are received during the opportunity for public comment (§218.7(a)). The responsible official must issue an explanation with the record of decision (ROD) or decision notice (DN) that the project was not subject to objection.

§218.5 Giving notice of proposed authorized hazardous fuel reduction projects subject to objection.

(a) In addition to the notification required in paragraph (c) of this section, the responsible official should disclose during scoping and in the EA or EIS that the project is authorized under the HFRA and will therefore be subject to the objection procedure at 36 CFR